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C O N F I D E N T I A L SECTION 01 OF 03 MADRID 002657

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TAGS: [PHUM](#) [PREL](#) [PTER](#) [SP](#)  
SUBJECT: SPAIN: UPDATE ON KEY TERRORISM-RELATED CASES

REF: A. MADRID 1914

[1](#)B. MADRID 1799

[1](#)C. MADRID 2374

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Classified By: A/DCM Kathleen Fitzpatrick for Reasons 1.4 (B) and (D)

[1](#)1. (C) Summary: In advance of the October 24 visit to Madrid of US Attorney General Alberto Gonzalez, Post presents a brief update on several of the most important pending or recently completed terrorism or criminal cases in the Spanish judicial system. Spain has made great strides in disrupting terrorist cells and frustrating would-be terrorist plots and we remain pleased with Spain's counter-terrorism cooperation. However, its national prosecutors continue to have difficulty building cases that can stand up in the courts and recent Spanish Supreme and national court decisions freeing alleged Al-Qaeda suspects are an important factor to consider as we pursue improved judicial cooperation with Spain. End Summary.

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High-profile Al-Qaeda Suspects  
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[1](#)2. (SBU) Spain's National Court on October 11 acquitted Lahcen Ikassrien after finding insufficient evidence that he was a member of either Al-Qaeda or of the Abu Dahdah terror cell in Spain, or that he fought alongside the Taliban in Afghanistan. Ikassrien is a Moroccan national and former Guantanamo detainee transferred to Spanish custody in July [1](#)2005. The court refused to admit any prosecution evidence that was obtained during his detention in Guantanamo or any information gleaned from intercepted phone calls in Spain. Post advised in Reftel A that this might occur, due to the unfortunate similarities the Ikassrien case had with that of accused terrorist Hamed Abderrahaman Ahmed, known in the media as the "Spanish Taliban." As reported in Reftel A, the Spanish Supreme Court announced on July 24 that it had annulled the six-year prison sentence handed down to Abderrahaman in September 2005 by Spain's national court. The court found that Spanish prosecutors could not use any evidence collected during their interrogation of Abderrahaman while he was being held at Guantanamo under conditions the court termed, "impossible to explain, much less justify." The Spanish prosecutor in the Ikassrien case had sought an eight-year jail sentence for the accused and tried unsuccessfully to build a case against Ikassrien that excluded evidence obtained in Guantanamo, noting publicly that Spanish authorities had obtained more than enough evidence of Ikassrien's membership in the Abu Dahdah terror cell prior to his stay in Guantanamo. It is unclear whether Ikassrien can be tried on any other terror-related charges.

13. (SBU) In a separate case, Spanish authorities on October 3 released Taysir Alony, who in September 2005 was sentenced to seven years in prison for membership in Al-Qaeda, for humanitarian reasons stemming from a serious heart problem. The Spanish Ministry of Interior is forcing Alony to wear a locator bracelet and monitoring his activities.

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CIA Flights and Prisons  
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14. (SBU) Despite President's Bush recent announcement that there are no longer any terrorist suspects held in "secret prisons," this issue continues to dominate press headlines in Spain. On the front page of its October 15 edition, leading Spanish daily El Pais reported that the founder of Al-Qaeda in Spain has been in a "secret CIA prison" for a year. Sensational headlines in the Spanish press continue to claim that Syrian-born Spanish national named Mustafa Setmariam was turned over to the US by Pakistan authorities at the end of 2005. The press reporting claims that Setmariam sowed the seeds of Jihad in Spain during the 1980s, but that the Spanish national court cannot request his extradition because he has not been officially arrested.

15. (SBU) Along similar lines, and as we reported in REFTELS B and C, the CIA flights inquiry remains a hot discussion topic in Spain. On October 9, German national Khaled al-Masri testified for three hours in a Spanish national court and claimed that he was kidnapped and tortured by CIA officers during five months in 2004. He said he was taken from Macedonia to Kabul on a flight that he believed could have stopped in Palma de Mallorca. Al-Masri said he would not be able to identify any members of the crew on board the flight from Macedonia, but he would be able to recognize some of those who interrogated him in Kabul. As noted in Reftel C, post continues to be concerned that Judge Moreno, the

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Spanish judge involved in this case, as part of Spain's highly independent judiciary, may determine that Spanish law allows him to claim "universal jurisdiction" on cases involving alleged torture and abuse. Such a determination may provide him the authority to adjudicate events that transpired in a third country if it is proven that related events occurred in Spain. Spanish government officials, including President Zapatero, continue to maintain their firm public stance that the flights did not violate any Spanish laws. However, Foreign Minister Moratinos expressed concern in front of the EU Parliament last month that, "our territory could have been used not to commit any offense, but as a stop-over to commit them in other countries." Moratinos has also urged the European Union to more vigorously investigate the presence of secret CIA prisons in other European countries. Spanish press reports that Judge Moreno in the near future will allow the national prosecutor to call other witnesses, including the airport authorities of Palma de Mallorca and the aircraft handling services.

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Madrid Train Bombings  
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16. (C) Despite the passage of more than two and a half years since the Madrid train bombings occurred on March 11, 2004, and the near universal acceptance by the Spanish public and terrorism experts that they were perpetrated by Al-Qaeda sympathizers with the goal to punish Spain for its participation in the Iraq War, a segment of the opposition Popular Party (PP) and the newspaper El Mundo continue to allege a Socialist party conspiracy and cover up and claim that the Basque terrorist group ETA had some link with the March 11 attacks. The highly-charged political clash over the Madrid bombing investigation has heightened the climate of bad blood between the opposition PP and the ruling Socialist government and has greatly hindered the pace of the

government's prosecution of the attacks. Spain is currently holding 29 individuals for their alleged connection to the bombings and prosecutors plan to charge these individuals with 191 counts of murder and 1,755 counts of attempted murder. The Spanish National Court has recently rejected various appeals from the accused and said that the trials, scheduled to begin in February 2007, may proceed. The National court in late September asked the Spanish Ministry of Justice to send an extradition request to Italy to bring Rabei Osman el-Sayed, known as "Muhammad the Egyptian," temporarily to Spain to face trial in connection with the Madrid bombings.

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The Detergent Command  
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¶7. (SBU) In a separate case pending before Spanish courts, the national prosecutor will seek a total of 142 years in prison for six Islamists arrested in January 2003 in Barcelona and Girona. These individuals are known in the press as "The Detergent Command," due to their possession of large quantities of detergents that police believe were to serve as ingredients for explosive devices. According to the prosecutor, these individuals were preparing a terrorist attack against a military base in the south of Spain, which may have been the base at Rota that the US shares with the Spanish navy and air force. The prosecutor will seek 32 years for Muhammad Tahraoui, alleged leader of the Detergent Command, and 22 years each for his alleged accomplices, Muhammad Amine BenaMoura, Ali Kaouka, Ismail Boudjelthia, Muhammad Nebbar and Sohuil Kouka.

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The Couso Case  
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¶8. (SBU) Although not related to terrorism, the case of Jose Couso--the Spanish television cameraman killed in Baghdad in April 2003 during a firefight between US forces and Saddam's army--may return to national prominence after a British inquest earlier this month implicated US soldiers in the death of a British journalist in southern Iraq in March 2003. Couso's death sparked protests in a country that was vehemently against the Iraq invasion and friends and relatives of Couso have tried for years to bring a wrongful death case against the US soldiers of the Third Infantry Division involved in the firefight. The Spanish national court in March 2006 claimed it had no jurisdiction and refused to hear the case, but Couso supporters appealed to the Spanish Supreme Court the following month and we are still awaiting the high court's ruling. Although we have yet to see any Spanish reaction to the findings of the British

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inquest, there is a possibility that Couso's family and their supporters will increase pressure on the Spanish Supreme Court to allow charges to be brought against the US soldiers.

¶9. (C) Comment: Spain is a serious and committed partner in our global war on terror and we remain pleased with the efforts of Spanish law enforcement, intelligence and judicial organizations to combat the Islamic extremist threat. However, Spanish police, prosecutors, and magistrates building legal cases against disparate and amorphous terror cells are struggling to develop evidence sufficient enough to meet the high threshold set by the Spanish courts. Spain has a highly independent judiciary that carefully guards this independence (a major achievement of the post-Franco era), and this is an important factor to consider as we pursue increased judicial cooperation with Spain in terrorism cases. Nonetheless, some of the recent Supreme and national court decisions can clearly be seen as a criticism of US detainee policies in Guantanamo that are highly unpopular among the Spanish. Embassy Madrid looks forward to using next week's visit of Attorney General Gonzalez and his delegation to

engage Spanish government officials on a range of important legal and judicial issues to encourage them to take an even more active role in the fight against global terrorism.

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